

REMARKS

Applicants herein acknowledge the restriction requirement in the above-referenced application. Claims 1 through 113 are currently pending in the application. The Office has identified the following groups of claims as being drawn to separate inventions:

Group I – Claims 1-71, 80-105, drawn to an injectable depot formulation, classified in class 424, subclass 426;

Group II – Claims 72-78, 106-112, drawn to a method of using the injectable depot formulation, classified in class 424, subclass 426; and

Group III - Claims 79 and 113, drawn to a kit containing an injectable depot formulation, classified in class 424, subclass 426.

Applicants hereby elect the claims of Group I, claims 1-71 and 70-105, without traverse.

Three species of invention have also been identified:

Species 1: Copolymer of lactic acid and glycolic acid as disclosed especially in applicant's published paragraph [0020];

Species 2: Copolymer of lactic acid and caprolactone-based polymer as disclosed especially in applicant's published paragraph [0026]; and

Species 3: Polymer of lactic acid as disclosed especially in applicant's published paragraph [0027].

An election is hereby made, without traverse, to prosecution the invention of Species 1. It is respectfully submitted that claims 1-3, 6-28, 31-51, 54-71, 80-81, 84-105 read on the invention of Species 1. Further, it is submitted that claims 1, 26, 49, 80, 104 and 105 are generic to both Species 1, 2, and 3.

Applicants note that upon allowance of a generic claim, any claims depending therefrom in a non-elected species would also be allowable.

Applicants respectfully request an early office action on the merits of claims 1-71 and 80-105.

Please Note Information Disclosure Statements

Applicants wish to draw the Examiner's attention to Information Disclosure Statements filed with the Office on April 12, 2004; May 3, 2004 and October 1, 2004, and respectfully request that the documents or other information referenced therein be made of record in the present application and that an initialed copy of the PTO-1449 forms be returned to the undersigned attorney evidencing same.

Should any of the documents, or portions thereof, be unavailable to the Examiner for any reason, please contact the undersigned attorney, who will supply same immediately by facsimile or other suitable method of delivery.

Preliminary Amendment

Applicants' undersigned attorney notes the filing herein of a Preliminary Amendment on April 12, 2004, which filing was not acknowledged in the outstanding Office Action. Should the Preliminary Amendment have failed for some reason to have been entered in the Office file, Applicants' undersigned attorney will be happy to have a true copy thereof hand-delivered to the Examiner.

CONCLUSION

An early Office Action on the merits is respectfully solicited.

Respectfully submitted,



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Date: December 18, 2006
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